

SCANNED

DATE: 08/08/04

BY: SKY

United States District Court
District Massachusetts

FILED
2004 AUG -6 P 11:24

U.S. DISTRICT COURT
DISTRICT OF MASS

Raul Montes
Petitioner

Case No. 99-12578 DPW
INS No. A24788121

Vs.

Immigration Naturalization Services
Respondent

04 11748 DPW
Writ of Habeas Corpus
and stay of deportation
Pursuant to 28 USC 2241

MAGISTRATE JUDGE Bowler

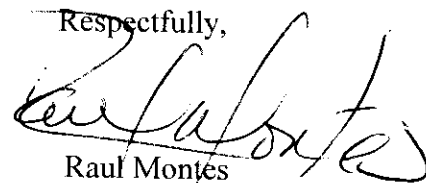
Motion for Stay of Deportation

- 1-) The petitioner Raul Montes is a Cuban Immigrant in the United States for humanitarian emergency reasons authorized under the INS act 212(0).
- 2-) The petitioner alleges that the INS in accordance with Title 8, Code of federal regulation section 212.5 (d) his parole status in a hearing was revoked. Because of a conviction on October 28th 1987 in a Worcester Superior Court in Boston, Massachusetts for the offense of Distribution Class A Chapter 94C Massachusetts general Law Case # 86112595.
- 3-) The petitioner alleges that in February of 1997 his immigration legal status was revoked and declared inadmissible because of the 1987 conviction. Docket No. 86112595
- 4-) The petitioner alleges that he was sent to a detention center in Texas where he was finally released under parole to wait for a future deportation.
- 5-) The petitioner alleges that on December 27th 1999 a motion was filed to vacate case No. 86-12595.
- 6-) The petitioner alleges the case No. 1986-12595 was Dismissed in October 17th 2002.
- 7-) The petitioner for this reason asks this Honorable Court to please stop the deportation order and to give back his legal immigration status to him as well as to the Department of Immigration and Naturalization Services.
The petitioner has enclosed a copy of the docket entry for case No. 1986-12595.

Argument

- 1-) The petitioner does not have any guilty convictions on his record.
- 2-) The petitioner for no reason should be denied his right to legal status within the United States.
- 3-) The INS has no motive at this time to maintain an inadmission of the petitioner.
- 4-) The INS has no argument for not giving the petitioner his legal migratory status.
- 5-) For said reason the petitioner ask your honorable court to order that his deportation be dismissed and that his legal statues be returned in its entirety.

Respectfully,

A handwritten signature in black ink, appearing to read "Raul Montes", is written over a horizontal line.

Raul Montes
INS # A24788121
3131 NW 16th Street
Miami, FL 33125

Kenneth I. Seiger
Attorney at Law
P. O. Box 470725
Brookline, MA 02447

Telephone/Fax:
(617) 277-8544

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

January 16, 2003

Raul Montes
P.O. Box 13-3161
Hialeah, FL 33013-3161

Dear Mr. Montes:

Enclosed please find, per your request, copies of the docket entries for your case in Worcester Superior Court. I have also enclosed a copy of the order of dismissal of your case.

Sincerely,


Kenneth I. Seiger

Enclosures

**Commonwealth of Massachusetts
County of Worcester
The Superior Court**

CRIMINAL DOCKET#: WOCR1986-12595

RE: Commonwealth v Montes, Raul
TO: Kenneth I Seiger, Esquire
PO Box 470725
Brookline Village, MA 02447-0012

NOTICE OF DOCKET ENTRY

You are hereby notified that on 10/17/2002 the following entry was made on the above referenced docket:

RE Offense 1:Dismissed - Motion to Dismiss (P#8) Allowed (McCann,J)

Dated at Worcester, Massachusetts this 27th day of December, 2002.

**Corinne L. Gorman,
Clerk of the Court**

Assistant Clerk

Telephone: 508-770-1899 Ext. 115

Check website as to status of case: <http://ma-trialcourts.org/tcic>

Commonwealth of Massachusetts
WORCESTER SUPERIOR COURT
Case Summary
Criminal Docket

12/27/2002
09:04 AM

WOCR1986-12595
Commonwealth v Montes, Raul

File Date	06/09/1986	Status	Disposed (disp)
Status Date	10/17/2002	Session	1 - Crim 1 (204 Worcester)
Jury Trial	Unknown	Origin	1 - Indictment
Lead Case			

Trial Deadline	Deadline Status	Status Date
Weapon	Custody Status	Start Date
Arraignment	Substance	Prior Record Unknown
	PTC Deadline	Pro Se Defendant No

Num	Offense	Code	Status	Status Date
1	03/21/1986	094C:032:a	Dismissed	10/17/2002
	Class A subntc, distrib/manufac			

Plaintiff Commonwealth Gender: Unknown Active 12/27/1999	District Atty's Office 363140 Lawrence J Murphy Worcester County District Atty's Office 2 Main Street Courthouse Room 220 Worcester, MA 01608-1176 Phone: 508-755-8601 Fax: 508-831-9899 Active 03/18/2002 Notify
Defendant Raul Montes J Ceda A24788121 102 West C Waukena, OK 73573 Gender: Unknown Active 12/27/1989	Private Counsel 556404 Kenneth I Seiger PO Box 470725 Brookline Village, MA 02447-0012 Phone: 617-277-8544 Fax: Active 12/13/2001 Notify

Date	Paper	Text
06/09/1986	1.0	Indictment returned
12/13/1999	3.0	Deft files Motion for Free Transcripts (case to Toomey,J)
01/10/2000		Motion (P#3) Because the notes from which defendant seeks to have a transcript produced are, according to the reporter, no longer in existence and because defendant has asserted no sustantive reason for his challenge to his 1987 guilty plea, this Motion is DENIED (Toomey,J) (DA & deft notified)
01/27/2000	4.0	Deft files Motion to Vacate Judgement w/Memorandum of Law in Support & Affidavit in Support (case to Toomey,J)
02/03/2000		CPCS has assigned KENNETH SEIGER to review the deft's motion to withdraw his guilty plea
02/24/2000		Court Reporter JANE ESPOSITO is hereby notified to prepare one copy

WOCR1986-12595
Commonwealth v Montes, Raul

Date	Paper	Text
02/24/2000		of the transcript of the evidence of 10/28/1987.
07/28/2000	5.0	Docket, indictment & P#3 & 4 mailed to Atty Seiger
08/01/2000		Def't files Motion to Withdraw Guilty Plea w/Memorandum in Support, Affidavits & Exhibits (copies to Toomey,J)
12/12/2001		ORDER (RE: P#5) : Motion assigned to Hillman, J. for determination (Toomey, RAJ) (DA & Atty Seiger notified, case to Hillman,J)
		(RE: P#5) This Motion shall be heard on Tuesday, January 8, 2002 at 2:00 p.m. It is expected that this motion will be heard in Worcester. However, counsel are asked to confirm the Court's schedule telephonically after 1/1/02 (Hillman,J) (parties notified)
05/30/2002	6.0	Motion by Def't: to Waive Presence at Hearing on Rule 30 Motion with Affidavit of Counsel
06/04/2002		Motion (P#6) allowed (Hillman,J) Copies mailed June 05, 2002
08/08/2002		Motion (P#5) Defendant's Motion to Witdraw Guilty Plea - ALLOWED (Hillman,J) see Findings and Order
08/08/2002	7.0	Findings and Order on Defendant's Motion to Withdraw Guilty Plea - ALLOWED (Hillman,J) (copies to DA & Atty. Seiger)
10/10/2002		Abstract sent to RMV
10/11/2002	8.0	Motion by Def't: to Dismiss and Affidavit in Support, filed
10/11/2002	9.0	Motion by Def't: to Waive Presence at Hearing on Motion to Dismiss and Affidavit, filed
10/17/2002		Motion (P#8) ALLOWED (McCann,J)
10/17/2002		RE Offense 1:Dismissed - Motion to Dismiss (P#8) Allowed (McCann,J)

Date	Session	Event	Result
01/08/2002	Crim 1 (204 Worcester)	Hearing: Post-Sentence	Event held as scheduled
03/18/2002	Crim 1 (204 Worcester)	before Hillman,J at 2:00 p.m. - Def't in INS custody in Texas - no habe to be issued Hearing: Post-Sentence	Event not reached by Court
04/09/2002	Crim 1 (204 Worcester)	Further hearing on Defendant's Motion to w/draw Guilty Plea w/Judge Hillman (No one appeared, apparently A.D.A. Lawrence Murphy is on vacation) Hearing: Post-Sentence	Event not held--joint request
05/22/2002	Crim 1 (204 Worcester)	Further hearing on Def't's Motion to W/draw Guilty Plea from 1/08/02 (Per phone call on 3/18/02 from Atty. Seiger the defendant has been released) JUDGE HILLMAN IS NOT SITTING HERE IN WORCESTER Hearing: Post-Sentence	Event not reached by Court
06/18/2002	Crim 1 (204 Worcester)	Further hearing from 1/08/02 on Def't's Motion to w/draw Guilty Plea. The defendant has been released from the INS facility in Texas. Per phone call from Judge Hillman on 5/13/02 this date needs to be rescheduled. Atty. Seiger notified and is to contact the clerk on a new date. (A. Rodriguez, III) Hearing: Motion	Event held--under advisement
06/20/2002	Crim 1 (204 Worcester)	Defendant's Motion to withdraw Guilty Plea (Further hearing from 1/08/02). Defendant's presence is waived. Rm. 12 Hearing: Post-Sentence	Event not held--req of Defendant
07/17/2002	Crim 1 (204 Worcester)	To be heard before Hillman,J (Atty. Seiger to contact clerk on a new date) Hearing: Motion	Event held as scheduled

John Fitzgerald Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

District Director

PLEASE REFER TO THIS FILE NUMBER

Date: MARCH 4, 1997
A#: 24 788 121

Mr./Mrs. Raul MONTES

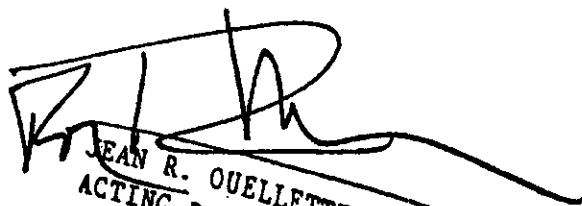
Dear Mr./Mrs. Raul MONTES

On May 5, 1980 you were paroled into the United States for emergent and humanitarian reasons, as authorized under Section 212(d)(5) of the Immigration & Nationality Act. In accordance with Title 8, Code of Federal Regulations, Section 212.5(d), your parole status is hereby revoked, effective immediately, for the following reasons:

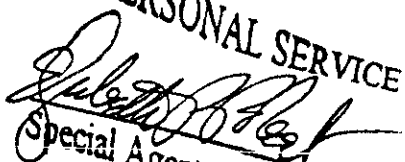
On Oct 26, 87 you were convicted in the Suffolk Superior Ct in Wrentham, MA of the offense of Distribution Class A in violation of Chapter 94C of the Massachusetts General Laws
Case # 97-633 96-112595

This letter is to formally notify you that your parole status is hereby revoked and you shall be returned to the custody of the Immigration and Naturalization Service.

Sincerely,


JEAN R. OUELLETTE
ACTING DISTRICT DIRECTOR

BY PERSONAL SERVICE


Special Agent

Immigration and Naturalization Service

John Fitzgerald Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

District Director

PLEASE REFER TO THIS FILE NUMBER

Date: MARCH 4, 1997

A#: 24 788 121

Mr/Mrs. Raul MONTES

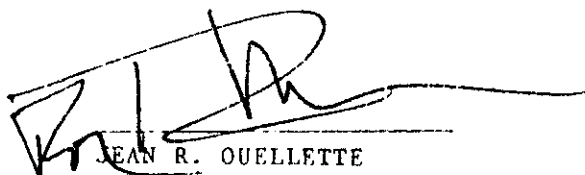
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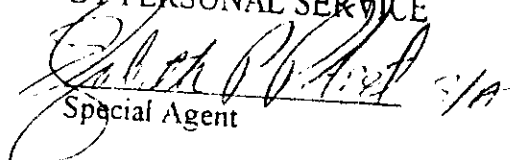
On January 1, 1996 you were convicted in the Suffolk Superior Ct in Boston, MA of the offense of Distribution Class A; in violation of Chapter 94C of the Massachusetts General Laws cont. sub. Heroin
Case # 951033

This letter is to formally notify you that your parole status is hereby revoked and you shall be returned to the custody of the Immigration and Naturalization Service.

Sincerely,


JEAN R. OUELLETTE
ACTING DISTRICT DIRECTOR

BY PERSONAL SERVICE


Special Agent